



CITY COUNCIL AGENDA REPORT

MEETING DATE: MARCH 20, 2007

ITEM NUMBER: _____

SUBJECT: AN INTERIM URGENCY ORDINANCE PLACING A MORATORIUM ON THE APPROVAL OF INDUSTRIAL CONDOMINIUM CONVERSIONS

DATE: MARCH 8, 2007

FROM: DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTATION BY: DONALD D. LAMM, DEPUTY CITY MGR. – DEV. SERVICES DIR.

FOR FURTHER INFORMATION CONTACT: R. MICHAEL ROBINSON, AICP (714) 754-5610

RECOMMENDATION:

Adopt attached interim urgency ordinance establishing a moratorium on the approval of industrial condominium conversions.

BACKGROUND:

At the March 6, 2007, City Council meeting, Council Member Linda Dixon requested that staff prepare for Council's consideration a proposed moratorium on the approval of new industrial condominium conversions. This request was prompted by Planning Commission approval of a parcel map to convert an existing multi-tenant industrial development at 755 – 785 West 17th Street and 1690 Placentia Avenue to industrial condominiums on February 12, 2007. This application generated considerable debate at the Commission hearing and, at the conclusion of the hearing, the Commission voted to request a special study session with City Council to discuss the impact of industrial condominium conversions as they relate to and impact implementation of the Mesa West Bluffs Urban Plan.

ANALYSIS:

Conversion Requirements and Concerns: Currently, residential condominium conversions are reviewed through a discretionary review process called a Residential Common Interest Conversion. This process allows staff and the Planning Commission to review conversion requests against current development standards for new condominium projects, and to require certain property upgrades and improvements. Code also allows the Commission to deny a residential conversion if the critical vacancy rate for apartments falls below 3%. No such specific process or review standards exist for non-residential condominium conversions.

One of the concerns expressed by Planning Commissioner Eleanor Egan and by members of the public at meetings, is that approval of industrial condominium conversions may hinder realization of the goals and objectives of the Mesa West Bluffs Urban Plan or other applicable overlay zone. This is based on the fact that most conversion requests affect larger parcels currently under a single ownership. Approval of the conversion would result in a subdivision of these larger parcels into smaller multiple ownerships and make subsequent efforts to redevelop the site for live/work or other

desirable uses envisioned by the City's recently enacted urban plans more complicated because of the need to reach agreement between multiple ownership interests.

Because no current process or review standards exist in the City's codes, staff needs time to study the possible impacts of further industrial condominium conversions, and possible alternatives to the present process, including whether to restrict such conversions in certain parts of the city or in certain overlay zones, but not others, whether to impose a greater level of discretionary review, or whether to impose standard development criteria and conditions on such conversions.

Interim Urgency Ordinance: Government Code Section 65858 allows cities to establish moratoriums to prohibit approval of certain uses in order to protect the public health, safety, and welfare. This is accomplished by the adoption of an interim urgency ordinance following a four-fifths vote of the City Council. The initial moratorium is limited to 45 days, but can be extended to a total time period of two years following additional notice and hearings, and the filing of a report which documents the progress being made to address the issue which resulted in the moratorium. This report and the notices must be completed at least ten days prior to the hearing to extend the moratorium.

The attached interim urgency ordinance has been drafted to meet the requirements of Section 65858 to establish a moratorium on the approval of new industrial condominium conversions. The ordinance prohibits the approval of any subdivision, use permit, variance, or any other applicable entitlement for the subdivision of existing industrially-zoned parcels into condominiums. Establishment of the moratorium will allow staff time to develop appropriate review procedures and standards and allow the Planning Commission and City Council the opportunity to conduct a joint study session to further discuss this issue and provide additional staff direction.

While no applications are currently pending, staff has received inquiries related to at least one possible conversion request.

ALTERNATIVES CONSIDERED:

The immediate alternatives available to City Council are to adopt or not to adopt the interim urgency ordinance. As noted earlier, should Council wish to proceed with the moratorium, a four-fifths vote will be required.

If the ordinance is adopted, Planning Staff will initiate a study to review alternative means to address the issue related to industrial condominium conversions. This will include alternative discretionary permit processes, such as that which exists for residential conversions, as well as additional review criteria and development standards which could be used to further evaluate industrial conversion requests. Also, since the immediate concern may be with the Westside, staff will also evaluate whether or not separate standards and review criteria might be appropriate in relation to the recently adopted urban plan areas. Staff will also evaluate if the new review procedures and standards should also be applied to commercial and/or office condominium conversions located in the other areas of the City.

Should City Council not wish to move forward with a moratorium, but still wish to develop additional review procedures and standards, staff is ready to initiate the same level of study as noted above following appropriate Council direction without benefit of a moratorium.

FISCAL REVIEW:

This draft ordinance does not require any fiscal review


LEGAL REVIEW:

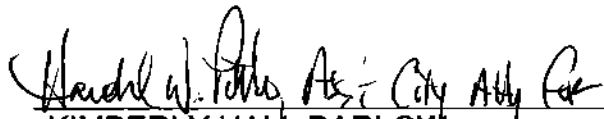
The attached draft interim urgency ordinance was prepared by the City Attorney's Office and approved as to form.

CONCLUSION:

The issue of industrial condominium conversions in the new Urban Plan areas has been raised by the Planning Commission, members of the public, and City Council. Adoption of the attached draft interim urgency ordinance will establish a moratorium which will allow time to develop and enact appropriate review procedures and criteria to evaluate future requests for conversions throughout the City.


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KIMBERLY HALL BARLOW
City Attorney

DISTRIBUTION: City Manager
Asst. City Manager
City Attorney

Deputy City Manager – Dev. Svs. Dir.
Public Services Director
City Clerk (2)
Staff (4)
File (2)

ATTACHMENTS: 1 Draft Interim Urgency Ordinance

File Name: 032007IndustrialCondoConv	Date: March 8, 2007	Time: 4:00p.m.
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ORDINANCE NO. _____

**AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF COSTA MESA PLACING A MORATORIUM ON THE
APPROVAL OF ANY SUBDIVISIONS, USE PERMITS, VARIANCES,
OR ANY OTHER APPLICABLE ENTITLEMENT WHICH WOULD
ALLOW FOR EXISTING INDUSTRIALLY ZONED PARCELS TO BE
SUBDIVIDED INTO INDUSTRIAL CONDOMINIUMS IN THE CITY OF
COSTA MESA.**

WHEREAS, City Council recently adopted comprehensive overlay zones in several areas zoned primarily for industrial uses in the City of Costa Mesa; and

WHEREAS, since the adoption of the overlay zones, several applications have been submitted, processed and/or approved for conversion of existing industrial parks into industrial condominiums; and

WHEREAS, conversion of large parcels into multiple airspace parcels capable of separate ownership may have the unintended consequence of interfering with property owners' rights to take advantage of the recently adopted overlay zones and the development incentives which accompany them; and

WHEREAS, the City's current zoning code contains no development standards or discretionary review process for industrial condominium conversions to ensure that non-conforming industrial property is brought to current code and that assessment is made of the conversion's possible impacts to the surrounding properties and to ensure that such conversions are occurring in appropriate locations; and

WHEREAS, City staff has indicated that it needs time to conduct studies and public hearings relating to the issue of industrial condominium conversions to determine whether they should be subject to discretionary review process, and/or whether development standards should be implemented for such conversions, whether such conversions should be precluded in certain overlay zone areas, or whether the underlying zoning should be changed in any portions of the overlay zone areas; and

WHEREAS, the City Council finds that there is a current and immediate threat to the public health, safety, or welfare from the approval of entitlements or permits relating to industrial condominium conversions in the City; and

WHEREAS, the City Council finds that a moratorium temporarily prohibiting the issuance of subdivisions, use permits, variances, or any other applicable entitlement which would allow for industrial condominium conversions in the City would best serve the public health, safety, and welfare, while the City conducts necessary research into the adequacy of the existing industrial conversion entitlement process, the possibility of creating a discretionary review process, crafting and adopting development standards for such conversions, and assessing the impact of such conversions on properties within overlay zones.

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES ORDAIN AS FOLLOWS:

Section 1.

1. In order to protect the public health, safety, and welfare and pursuant to the provisions of California Government Code Section 65858, a moratorium is hereby placed on the following:

The approval of any subdivision, use permit, variance, or any other applicable entitlement for the subdivision of existing industrially zoned parcels into industrial condominiums in the City of Costa Mesa

2. This moratorium shall be effective immediately upon adoption and shall remain in effect for forty-five (45) days, but may be extended after notice, pursuant to California Government Code Section 65090, and public hearing, for an additional period of ten (10) months and fifteen (15) days and subsequently extend the interim ordinance for one (1) year, when findings are made that there is a current and immediate threat to public health, safety, or welfare, pursuant to California Government Code Section 65858(c).
3. This urgency is based on the following facts:
 - (a) The City has recently received, processed and/or approved several industrial condominium conversion applications.
 - (b) The City Council recently adopted comprehensive overlay zones for many of the industrial areas of the city after years of planning, study, and environmental review.
 - (c) The conversion of single large industrially zoned lots into multiple small lots under separate ownership may have a detrimental impact on the ability of present and future property owners to take advantage of the development incentives provided by the overlay zones.
 - (d) There are currently no comprehensive discretionary review processes or development standards in place in the City of Costa Mesa zoning codes relating to conversion of industrial parcels to industrial airspace condominiums.
 - (e) The City of Costa Mesa requires time to conduct a comprehensive study to ensure the adequacy of the current review and approval process for industrial condominium conversions, to determine whether new processes or standards should be implemented, or whether some of the property currently zoned for industrial use should be rezoned or whether industrial condominium conversions should be prohibited in some or all of the areas of the overlay zones.

- (f) The City of Costa Mesa also requires time to decide if the public health, safety, and general welfare would be better served by revising the overlay zones to address industrial condominium conversions or to otherwise revise regulations relating to development therein.

Section 2. Environmental Determination. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be exempt.

Section 3. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 4. The City Clerk shall certify to the passage and adoption of this ordinance, by at least a four-fifths vote of the City Council, and shall cause the ordinance to be published in the manner required by law. This ordinance shall become effective immediately from and after its passage.

PASSED AND ADOPTED this ____ day of _____, 2007

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk of the
City of Costa Mesa

City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, Julie Folcik, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 07__ was introduced, considered section by section, and adopted at a regular meeting of said City Council held on the ____ day of _____, 2007 by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2007

City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa